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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 23

Application Number: 08/797,079

Filing Date: February 10, 1997

Appellant(s): BENNETT, CRAIG ALAN

Stephen R. Tkacs  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed Sept. 23, 2002.

**(1) Real Party in Interest**

A statement identifying the real party in interest is contained in the brief.

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**(2) Related Appeals and Interferences**

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) Status of Claims**

The statement of the status of the claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Invention**

**(5) Summary of Invention**

The summary of invention contained in the brief is correct.

**(6) Issues**

The appellant's statement of the issues in the brief is correct.

**(7) Grouping of Claims**

Appellant's brief includes a statement that claims of group A (1,4,5,8,9,12,14,15,17,21-25,31), group B (3), group C (6,7,10,16), and group D (32-39) do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

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**(8) ClaimsAppealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

5,857,203	Kauffman et al.	1-1999
5,689,825	Averbuch et al.	11-1997
5,446,888	Pyne	8-1995

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-5, 8-9, 12, 14-17, 21-25, 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kauffman et al. US patent 5,857,203 and further in view of Averbuch et al. US patent 5,689,825.

As per claim 1, Kauffman teaches a method of downloading a file, consisting of components, from a server to a client, comprising the steps of:

receiving from a server a profile [piece map] of the download file;

initiating a download sequence by which each component file is transferred one-by-one and reassembling the component files into the download file using the profile [col.11 lines 14-29].

Kauffman does not specifically disclose the client and server being an Internet client and an Internet server using an Internet

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protocol. However, applicant defines (on page 25 of the specification) an Internet client and Internet server as any type of computers or components connected to any type of network. Hence, the client and server of Kauffman read on the Internet client, Internet server as claimed. It would also have been obvious for one of ordinary skill in the art to use Internet protocol (e.g. FTP) because it is widely available, standard, and reliable protocol for transferring files.

Kauffman does not specifically disclose what happened when download is interrupted. Averbuch teaches a method for efficient transferring of a file wherein upon interruption of the download sequence, restarting the download starting at the block of the file affected by the interruption [col.6 lines 20-29]. The blocks successfully transferred prior to the interruption are not re-transferred [col.6 line 29]. Hence, it would have been obvious for one of ordinary skill in the art to combine the teaching of Averbuch with the system of Kauffman because it would have improve the efficiency of the downloading.

As per claim 3, Kauffman's object to be download comprises plural component files. Each component file is a file in itself. Averbuch teaches method for keeping track of progress during downloading of a file and restart at the point in the file where it was interrupted. Hence, it is apparent that the system as modified, while downloading of a particular component file, would restart at the point of interruption of the affected component file. It would have been obvious for one of ordinary skill in the art to do so because the component files prior to

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the interruption was already completely received; it would have been a waste of time and bandwidth to retransmit those component files.

As per claims 8, 12, 17, 21, 22, 24, they are rejected under similar rationales as for claim 1 above.

As per claims 4, 23, 25, it is well known in the art to use FTP for file transfer. It would have been obvious for one of ordinary skill in the art to use FTP because it is a well known protocol for transferring of file.

As per claims 5, 9, 15, Kauffman discloses the profile includes for each component file an identifier, size, and code uniquely identifying the component [see col.7 lines 60-65, col.8 lines 47-53].

As per claim 31, it is rejected under similar rationale as for claim 1 above. Kauffman does not specifically disclose the client comprises a remote control unit and a base unit (e.g. Web appliance). The downloading method would work equally well whether the client is a computer or a Web appliance with a remote control and a base unit. Hence, using a Web appliance would have been an obvious variation from the system as modified.

As per claims 32-39, Kauffman teaches using the profile [piece map] to determine the component files making up the object being downloaded. It is apparent that the system as modified would have to use the profile to determine which component files are still needed to be request from the server when the downloading is resumed.

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Claims 6-7, 10, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kauffman et al. and Averbuch et al. and further in view of. Pyne US patent 5,446,888.

As per claims 6-7, 10, 16, Kauffman does not specifically disclose using CRC for identifying file component and verifying the component file integrity. The use of CRC to identify and verify file integrity is well known in the art. Pyne teaches a remote file transfer method using CRC to identify and check the integrity of the file [see col.7 lines 50-64]. It would have been obvious for one of ordinary skill in the art to use CRC as identifier for the component file because it would have improved the reliability of the system by enabling the client to identify and check the integrity of downloaded component files.

#### **(II) Response to Argument**

With respect to group A, applicant argued that there is no real reason to combine Kauffman and Averbuch, and that the combination teaches away from the claimed invention. The argument is not persuasive because, as acknowledged by applicant in the appeal brief, Kauffman teaches dividing a large file into smaller component files. Each of the Kauffman's component files is an actual file within itself. Each component file is individually transmitted from a server to a client upon request by the client [see col.11 lines 14-29]. Kauffman does not teach what to do when interruption occurs during the transmission of any of the component files. Averbuch teaches counting blocks

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while a file is in transmission so as to enable more efficient downloading of file by restarting the transmission at the point of interruption. Hence, one would have been motivated to applying the transmission restart method of Averbuch to the transmission of Kauffman component file so as to enable efficient downloading of each of the component files.

As per the argument for group B, applicant argued that the prior art does not teach that any component file transferred prior to the interruption is not re-transferred from the server.

The argument is not persuasive because, as discussed above, the client individually request each component files from a server. The client has a map that tells the client the component files to request [col.11 line 15]. It is apparent, from the combination of Averbuch with Kauffman as discussed above for group A, that any component file that were successfully received at the client would not be requested when restarting an interrupted transmission.

As per the argument for group D, applicant argued that the prior art does not teach restart the downloading using the profile. Kauffman teaches a profile (pieces map) which lists in sequence the required component files [col.11 lines 14-20]. The map dictates the sequence for requesting the component files. Hence, it is apparent that when restart, the map would be used

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in order to determine which component files still needed from the server.

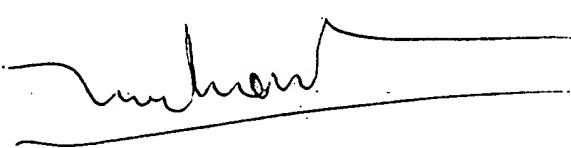
As per the argument for group C, applicant argued that the reference does not teach using CRC to check file integrity. Kauffman and Averbuch does not teach using CRC to check file integrity. However, using CRC for checking file integrity is notoriously well known in the art. The rejection provided reference and proper obviousness rationale for using CRC.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,  
  
Dung Dinh  
Primary Examiner  
Art Unit 2153

November 12, 2002

Conferees

  
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